HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.14539 of 2007

Date: 13.08.2007

Between :

Padam Atchyutha Ramaiah.

.....Petitioner

And

The special cadre Deputy Registrar/officer on special duty and others.

.....Respondents.

HON'BLE SRI JUSTICE L. NARASIMHA REDDY

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ORDER :

One Sri Vejju Bala Krishna Rao, the 5th respondent herein obtained loan from the Bhimadole Farmers Service Co-operative Credit Society Limited, 3rd respondent herein. Since the loan amount was not paid, proceedings were initiated before the first respondent. A recovery certificate was issued for a sum of Rs.2,81,600/-. In pursuance thereof, the land in Survey No.82/2 of Surappa Gudem, Bhimadole Mandal, West Godavari District belonging to the 5th respondent was brought to sale by the second respondent. The petitioner emerged as the highest bidder for an extent of Ac.2.41 cents in Survey No.82/2, for a sum of Rs.4,22,000/-. The petitioner claims to have paid the entire amount.

The 4th respondent filed a claim petition under Rule 52 of the A.P.Co-operative Societies Act, 1964 (for short 'the Act') before the 1st respondent, for setting aside the sale. According to him, the 5th respondent executed a deed of settlement on 04.03.1999 in favour of his

daughter, and the latter, in turn, sold the same in favour of Ananta Naga Lakshmi Jyothi. Stating that he purchased the said property from Ananta Naga Lakshmi Jyothi, the 4th respondent pleaded that the sale is null and void.

The petitioner and respondents 3 and 5 filed objections to the claim petition. Through his order, dated 24.05.2007, the first respondent cancelled the sale that took place on 22.01.2007 and directed return of the amount to the petitioner. The same is challenged in this writ petition.

On behalf of the 4th respondent, a counter affidavit is filed, opposing the writ petition. It is stated that there was collusion between the 5th respondent and the petitioner to knock away the land, which had already been transferred in favour of several persons.

Heard Sri A.V.Sesha Sai, the learned counsel for the petitioner, Smt Bobba Vijaya Lakshmi, the learned counsel for respondents 1 and 2, learned Government Pleader for Co-operation for respondent No.3 and Sri A.Rama Lingeswara Rao, the learned counsel for respondent No.4

A sum of Rs.2,81,600/- remained unpaid by the 5th respondent. Therefore, recovery proceedings were initiated under the provisions of the Act and the Rules made thereunder. Two items of properties were brought to sale. Out of them, the land in Survey No.82/2 fetched a sum of Rs.4,22,000/- offered by the petitioner.

The 4th respondent pleaded that the 5th respondent ceased to be the owner of the property since 1999 and thereafter, it has changed hands. He claimed to be the present owner of the property.

The first respondent appears to have been convinced about the claim of the 4th respondent. However, the order passed him does not reflect any discussion on the merits of the claims made by the respective parties. A claim petition under Rule 52 of the Act is almost similar to the one under Order 21 Rule 58 C.P.C. It is comparable suit for adjudication of the rival claims. It is true that the 1st respondent is not a regular Court. All the same, specific findings are to be recorded, touching upon the claims of the respective parties.

For the foregoing reasons, the writ petition is allowed and the impugned order is set aside. The matter

is remanded to the 1st respondent for fresh consideration and disposal, through a detailed order, dealing with the claims of the parties concerned. The first respondent shall also give an opportunity of being heard all the parties concerned. There shall be no order as to costs.

13.08.2007

JSU